IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1181 OF 2005

Suresh Sadashiv Ghag ..Petitioner

Vs.

Vijay J.Gharat & Anr. ..Respondents

...

Mr. Ramesh Ramamurthy Advocate for Petitioner
Mr. Y.S.Shinde, A.P.P. for the State

...

**CORAM: SMT.V.K.TAHILRAMANI,J.**
**DATE : SEPT. 8,2005**

**P.C.**

1. Heard the learned advocate for the petitioner i.e. original accused and Mr.Vijay J.Gharat respondent no.1 i.e. original complainant who is present in Court in person.

2. The petitioner is seeking quashing of proceedings relating to Criminal Case No.687/SS/2005 (Old C.C.No.1179/SS/2004) pending before the learned Metropolitan Magistrate, 23rd Court, Esplanade, Mumbai. In the said case, process has been issued against the petitioner

under Section 138 r.w. 141 of Negotiable Instruments Act. The learned advocate for the petitioner submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. It is further submitted that if the process issued against the petitioner is set aside, the proceedings in respect of the petitioner, would come to an end.

3. For the reasons recorded in my order dated 13th June, 2005 in W.P.No. 213 of 2005 and dated 21st June, 2005 in Cri.Application No.550 of 2005, I am of the opinion that the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioner prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the petitioner makes a statement that the necessary

revision will be preferred within four weeks from today.

. The respondent no.1-complainant fairly states that if the revision is filed within four weeks from today, no objection will be raised in respect of delay in filing the revision.

5. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

6. Writ Petition is disposed of.

[V.K.TAHILRAMANI,J.]